



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2267.421-US-02

David L. Halbmaier

Confirmation No.: 1327

Application No.: 09/884,450

Examiner: Perrin, Joseph L

Filed: June 18, 2001

Group Art Unit: 1746

For: WAFER CONTAINER WASHING APPARATUS

---

APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING  
REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT  
INDICATED IN NOTICE OF ALLOWANCE (37 CFR § 1.705)

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

1. This is a request for reconsideration of the patent term adjustment of 95 days indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) that was attached to the Notice of Allowance and Fee(s) Due mailed on March 31, 2004. It is respectfully requested that applicants be afforded a patent term adjustment of **167 days**.
2. The issue fee has not yet been paid.
3. Applicant submits herewith a "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment" (37 C.F.R. § 1.705(b)(2)(i), (ii), and (iv)).

4. Any patent granted on this application (37 C.F.R. § 1.705(b)(iii)) is not subject to a terminal disclaimer.
5. As to any circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of the above-identified patent application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)), Applicant's delays are set out in the attached "Statement of the Correct Patent Term Adjustment: Basis(es) Under § 1.702 For the Adjustment."
6. The fee set forth in § 1.18(e) (\$200), required by 37 C.F.R. § 1.705(b)(1) is requested to be charged to Deposit Account No. 16-0631.

Respectfully submitted,



Scott G. Ulbrich  
Registration No. 48,005

CERTIFICATE OF MAILING

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June 30, 2004  
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\_\_\_\_\_  
Scott G. Ulbrich



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Attorney Docket No.: 2267.421-US-02

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Application No.: 09/884,450

Examiner: Perrin, Joseph L

Filed: June 18, 2001

Group Art Unit: 1746

For: WAFER CONTAINER WASHING APPARATUS

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**STATEMENT OF THE CORRECT PATENT TERM ADJUSTMENT:**  
**BASIS(ES) UNDER § 1.702 FOR THE ADJUSTMENT**  
**37 C.F.R. § 1.705(b)(2)(i), (ii), and (iv)**

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This statement is being submitted in support of the “APPLICATION FOR PATENT TERM ADMJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 CFR § 1.705)” to which this statement is attached.

**I. 37 C.F.R. § 1.705(b)(2)(i)**

The patent term adjustment on the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) that was attached to the Notice of Allowance and Fee(s) Due is 95 days. This determination of 95 days is an error, due to improper “Palm” entries by the USPTO, which resulted in an erroneous calculation of applicant delay (“APPL”) of 134 days (61+7+66). Instead, Applicant’s delays should only total 62 days (49+7+6). In addition, USPTO delays

should total 229 days for failure to meet the 14-Month PTO First Action Guarantee under 35 U.S.C. 154(b)(1)(A)(i); 37 C.F.R. 1.702(a)(1), 1.703(a)(1), and 116 days for failure to meet the 3-Year PTO Issue of Patent Guarantee under 35 U.S.C. 154(b)(1)(B); 37 C.F.R. 1.702(b), 1.703(b).

It is respectfully submitted, therefore, that the correct patent term adjustment under § 1.702 is **167 days** after Applicant elects to take the longer of the two USPTO periods of delay (229 days over 116 days).

**II. The basis(es) on which Applicant seeks adjustment, and the factual circumstances of Applicant's delays pursuant to 37 C.F.R. § 1.705(b)(2)(ii) and (iv) are as follows:**

**A. The indication of Applicant's delays listed as 61 days on the Patent Term Adjustment History should be reduced to 49 days.**

The Patent Term Adjustment History lists January 14, 2002 as the date satisfying Applicant's 3-Month obligation to respond to the Notice to File Missing Parts of Nonprovisional Application. (See Patent Term Adjustment History, Item 7.) However, this listed date is an error. Instead, the 3-Month obligation was satisfied on January 2, 2002.

More specifically, a Notice to File Missing Parts on Nonprovisional Application was mailed by the USPTO on August 14, 2001, as evidenced by the enclosed copy. A Response To Notice To File Missing Parts On Nonprovisional Application was filed on January 2, 2002, as evidenced by the enclosed copy of the postcard receipt therefore, thereby delaying 49 days, not 61 days. The January 14, 2002 date for Item 7 (Application is Now Complete) of the Patent Term Adjustment History for application Serial No. 09/884,450 (a copy of which is enclosed) is thus an error. The correct date is January 2, 2002. The application was thus complete on

January 2, 2002, not on January 14, 2002, as erroneously indicated on the Patent Term Adjustment History, and Applicant's delays should be 49 days, not 61 days.

**B. The delay listed on the Patent Term Adjustment History of 7 days is correct.**

A Non-Final Office Action was mailed on April 4, 2003 and Applicant's response via Amendment was filed on July 11, 2003. This resulted in an Applicant delay of 7 days. Therefore, the listed Applicant delay of 7 days on the Patent Term Adjustment History is correct.

**C. The indication of Applicant's delays listed as 66 days on the Patent Term Adjustment History should be reduced to 6 days.**

The Patent Term Adjustment History lists February 20, 2004 as the date satisfying Applicant's 3-Month obligation to respond to the Final Office Action. (See Patent Term Adjustment History, Item 25.) This listed date is an error. Instead, the 3-Month obligation to respond to the Final Office Action for purposes of calculating patent term adjustment was satisfied on December 22, 2002. Applicant's February 20, 2004 response should be used for calculating time of response to the Advisory Action under 35 U.S.C. 154(b)(2)(C)(ii); 37 C.F.R. § 1.704(b).

Specifically, a Final Office Action was mailed by the USPTO on September 16, 2003, as evidenced by the enclosed copy. A response via Amendment After Final Rejection was filed on December 22, 2003, as evidenced by the enclosed copy of the postcard receipt therefore, thereby delaying 6 days, not 66 days. Advisory Action was subsequently mailed on January 23, 2004, as evidenced by the enclosed copy. Applicant then submitted a further response in light of the Advisory Action by filing an Amendment on February 20, 2004, as evidenced by the enclosed copy of the postcard receipt therefore.

The Patent Term Adjustment History fails to recognize Item 19 – Applicant's December 22, 2003 Amendment After Final Rejection – as meeting Applicant's 3-Month period to respond

for patent term adjustment purposes, but instead recognizes Item 25 – Applicant’s February 20, 2004 Amendment After Final Rejection – as meeting such. It is respectfully submitted that this failure is erroneous under the plain language of both 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b), which state “an applicant should be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.” Applicant respectfully submits that the filing of the December 22, 2003 Amendment as a response to the September 9, 2003 Final Office Action satisfied Applicant’s patent term adjustment obligation under 35 U.S.C. 154(b)(C)(ii).

Applicant further respectfully submits that when the PTO mailed the January 23, 2004 Advisory Action, such notice from the Office constituted a “rejection, objection, argument, or other request” under 35 U.S.C. 154(b)(C)(ii), which is a separate subsequent notice under the statute. Applicant’s response on February 20, 2004 was mailed within three months of the 35 U.S.C. 154(b)(C) (ii) event and, therefore, should not count against Applicant’s calculation of patent term adjustment. Based upon the foregoing, Applicant respectfully submits that Applicant’s delay was only 6 days, not 66 days.

**D. The USPTO delayed by 229 days by failing to meet its 14-Months to First Notice Guarantee.**

The Patent Term Adjustment History correctly indicates the USPTO’s delay of 229 days for failing to meet its 14-Months to first Notice guarantee under 35 U.S.C. 154(b)(1)(A)(i); 37 C.F.R. § 1.702(a)(1), 1.703(a)(1). Applicant’s filing date was June 18, 2001, as evidenced by the

enclosed copy of the postcard receipt therefore. The first notification by the USPTO was mailed on April 4, 2003. Therefore, there was a delay of 229 days by the USPTO.

**E. The USPTO delayed by 116 days by failing to meet its 3-Years to Issue Guarantee.**

The USPTO delayed 116 days by failing to meet its 3-Year Pendency Guarantee under 35 U.S.C. 154(b)(1)(B); 37 C.F.R. § 1.702(b), 1.703(b). Applicant's filing date was June 18, 2001, as evidenced by the enclosed copy of the postcard receipt therefore. The issuance date of the patent is anticipated to be October 12, 2004; thereby, resulting in a USPTO delay of 116 days.

**CONCLUSION**

The USPTO's delays of 229 days and 116 days results in a total of 345 days of delay. However, in light of 69 Fed. Reg. 34283 (June 21, 2004), which clarifies what constitutes "overlap," Applicant elects the longer of the two delays (229 days) to be applied towards its patent term adjustment after being offset by Applicant's delays. Applicant's delays constitute 49 days, 7 days, and 6 days for a total of 62 days. Therefore, Applicant respectfully requests a patent term adjustment of **167 days**.

Respectfully submitted,



Scott G. Ulbrich  
Registration No. 48,005

**CERTIFICATE OF MAILING**

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

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Date of Deposit

  
\_\_\_\_\_  
Scott G. Ulbrich

## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/884,450	06/18/2001	David L. Halbmaier	2267.421US02

CONFIRMATION NO. 1327

24113

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.  
4800 IDS CENTER  
80 SOUTH 8TH STREET  
MINNEAPOLIS, MN 55402-2100

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AUG 20 2001 \*OC000000006422765\*

PATTERSON, THUENTE, SKAAR  
& CHRISTENSEN, P.A.

DOCKETED

Date Mailed: 08/14/2001

## NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

## Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.  
*Applicant must submit \$ 710 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is \$152.
  - \$72 for 4 total claims over 20.
  - \$80 for 1 independent claims over 3.
- The oath or declaration is missing.  
*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- **The balance due by applicant is \$ 992.**

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
  - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. ( 5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);

Oath filing fee & surcharge due 12-14-01 ✓  
 Per 1 month extension 1-14-01 ✓  
 Per 2 month extension 2-14-01 ✓  
 Per 3 month extension 3-14-01 ✓  
 Per 4th & FINAL extension 4-14-01 ✓



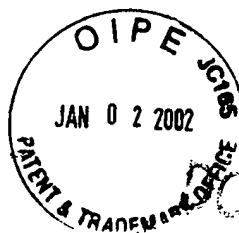
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Missing Parts Transmittal;  
Copy of PTO Notice to File Missing Parts; **PATTERSON, THUENTE, SKAAR**  
Executed Declaration; **& CHRISTENSEN, P.A.**  
Assignment Cover Sheet/Executed Assignment;  
Corrected Drawings – 23 sheets;  
Check for \$1,066.00; and  
Postcard Receipt.

Applicant: Halbmaier  
Application No.: 09/884,450  
File No.: 2267.421US02  
Due Date: November 14, 2001  
Initials: DJC/ma  
Mailed: November 14, 2001 via First Class Mail



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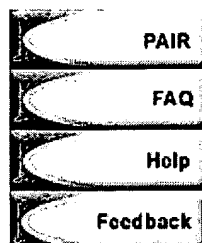
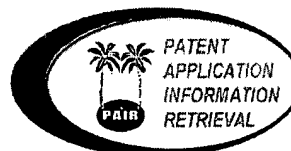
*Recorded Assign. need? 4-20-02*



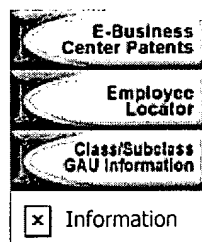
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## PATENT APPLICATION INFORMATION RETRIEVAL



## Other Links



## Patent Term Adjustment (PTA) for publication number: 09/884,450

			Days
Filing or 371(c) Date:	06-18-2001	USPTO Delay (PTO):	229
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	134
Post-Issue Petitions (days):	+0	Total PTA:	95
USPTO Adjustment (days):	+0	Explanation of Calculations	

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File History

Published Documents

## Patent Term Adjustment History

Number	Date	Contents Description	PTO (days)	APPL (days)
46	03-31-2004	Mail Notice of Allowance		
45	03-31-2004	Mail Formal Drawings Required		
44	03-31-2004	Mail Examiner's Amendment		
43	03-25-2004	Issue Revision Completed		
42	03-26-2004	Formal Drawings Required		
41	03-26-2004	Notice of Allowance Data Verification Completed		
40	03-26-2004	Examiner's Amendment Communication		
39	03-26-2004	Notice of Allowability		
38	03-16-2004	Examiner Interview Summary Record (PTOL - 413)		
37	03-10-2004	Examiner Interview Summary Record (PTOL - 413)		
36	03-26-2004	Mail Non-Final Rejection		
35	03-16-2004	Examiner Interview Summary Record (PTOL - 413)		
34	03-10-2004	Examiner Interview Summary Record (PTOL - 413)		
33	03-16-2004	Non-Final Rejection		
27	03-10-2004	Examiner Interview Summary Record (PTOL - 413)		
26	03-03-2004	Date Forwarded to Examiner		
25	02-20-2004	Amendment after Final Rejection		66
24	02-20-2004	Request for Extension of Time - Granted		↑
23	01-23-2004	Mail Advisory Action (PTOL - 303)		↑
22	01-15-2004	Advisory Action (PTOL-303)		↑
21	01-12-2004	IFW Amended case processing Complete		↑
20	01-12-2004	Date Forwarded to Examiner		↑
19	12-22-2003	Amendment after Final Rejection		↑
18	09-16-2003	Mail Final Rejection (PTOL - 326)		↑
17	09-10-2003	Final Rejection		

16	08-07-2003	Date Forwarded to Examiner		
15	07-11-2003	Response after Non-Final Action		7
14	04-04-2003	Mail Non-Final Rejection	229	↑
13	04-03-2003	Non-Final Rejection	↑	
12	01-06-2003	Case Docketed to Examiner in GAU	↑	
11	03-12-2002	Information Disclosure Statement (IDS) Filed	↑	
10	02-28-2002	Information Disclosure Statement (IDS) Filed	↑	
9	02-01-2002	Case Docketed to Examiner in GAU	↑	
8	01-28-2002	Application Dispatched from OIPE	↑	
7	01-14-2002	Application Is Now Complete	↑	61
6	08-14-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	↑
5	08-14-2001	Correspondence Address Change	↑	
3	08-13-2001	Correspondence Address Change	↑	
2	06-26-2001	IFW Scan & PACR Auto Security Review	↑	
1	06-18-2001	Initial Exam Team nn	↑	

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,450	06/18/2001	David L. Halbmaier	2267.421US02	1327

24113 7590 09/16/2003

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PATTERSON, THUENTE, SKAAR  
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EXAMINER

PERRIN, JOSEPH L

ART UNIT PAPER NUMBER

1746

DATE MAILED: 09/16/2003

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Date of Final Office Action 9-16-03  
Two month petition due 11-16-03  
Response to or appeal from final action due 12-16-03  
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Per 3rd & FINAL extension 3-16-04

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Applicant: Halbmaier  
Title: WAFER CONTAINER WASHING APPARATUS  
Serial No.: 09/884,450  
Filed: June 18, 2001  
Dkt. No.: 2267.421US02  
Initials: SGU:uw  
Mailed: December 16, 2003

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,450	06/18/2001	David L. Halbmaier	2267.421US02	1327

24113 7590 01/23/2004

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Applicant: David Halbmeier  
Application No.: 09/884,450  
File No.: 2267.421US02  
Due Date: February 16, 2004

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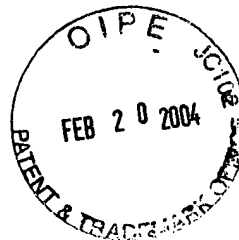
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Applicant: David Halbmeier  
Application No.: 09/884,450  
File No.: 2267.421US02  
Due Date: February 16, 2004  
Initials: DJC/SGU/jae  
Mailed: February 17, 2004 via First Class Mail

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THUENTE, SKAAR  
RISTENSEN, P.A.



*N.J. Jodanis*



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Mailing - 2 pages;

CIP/Divisional Patent Application - 39 pages;

Drawings - 23 pages; and

Postcard Receipt.

Applicant: David L. Halbmaier

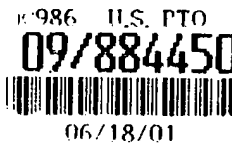
Application No.: *of even date*

File No.: 2267.421US02

Due Date: June 18, 2001

Initials: DJC/ma

Mailed: June 18, 2001 via Express Mail EL595679862US







PATENT APPLICATION

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Attorney Docket No.: 2267.421US02

Halbmaier, David

Confirmation No.: 1327

Application No.: 09/884,450

Examiner: Joseph Perrin

Filed: June 18, 2001

Group Art Unit: 1746

For: WAFER CONTAINER WASHING APPARATUS

---

SUBMISSION OF FORMAL DRAWINGS

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Allowability mailed March 31, 2004, which requires corrected drawings, enclosed are 20 sheets (Figs. 1-17C and 19-34) of formal drawings.

Respectfully submitted,

Scott G. Ulbrich  
Registration No. 48,005

Customer No. 24113  
Patterson, Thunte, Skaar & Christensen, P.A.  
4800 IDS Center  
80 South 8th Street  
Minneapolis, Minnesota 55402-2100  
Telephone: (612) 349-5776

*Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.*

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Scott G. Ulbrich